IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER,

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

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WRIT PETITION NO : 3404 of 1994

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Between:

The Management of Singareni Collieries Co. Ltd., Kothagudem rep. by its General Manager (Personnel), Kothagudem.

..... PETITIONER

AND

-

1. The Presiding Officer, Industrial Tribunal-I, Chandra Vihar Road, Hyderabad.

2. The Workmen of Singareni Collieries Co. Ltd. rep. by President, Singareni Collieries Engineering Workers Union, RAMAKRISHNAPUR, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order direction or writ particularly one in the nature of WRIT OF CERTIORARI after calling for the records from the first respondent in I.D.No.59 of 1984 and quash the Award passed therein dated 1st September, 1993.

Counsel for the Petitioner : MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2 : SRI A.K.JAYAPRAKASH RAO

The Court made the following :

O R D E R :

This Writ Petition is filed by the Management of Singareni Collieries Company Limited challenging the Award, dated 1.9.1993 passed by the Presiding Officer, Industrial Tribunal-I, Hyderabad in I.D.No.59 of 1984.

2. The Government of India referred the following issues for adjudication by the Industrial Tribunal by notification dated 18.10.1984 under Section 10(1)(d) of the Industrial Disputes Act, 1947 (for short 'the Act'):

> "Whether the following demands of the workmen employed by Messrs. Singareni Collieries Company Limited are justified?
>
> i. Posting of Rope Splicers in Category V in Second and Third Shifts.
>
> ii. Grant of dust allowance to the workers engaged on AM-50 Machines and Long Wall Machines.
>
> iii. Grant of Technical Grade 'A' to Electrical charge Hands working as Electrical Supervisors."

If so, to what relief are the Workmen concerned entitled?"

3. The workmen represented by 2nd respondent-Union submitted a

claim statement before the Tribunal and it was opposed by the management.

4. On behalf of the Workmen, seven witnesses were examined and Exs:W-1 to W-4 were marked. On behalf of the management, six witnesses were examined and Exs:M-1 to
M-38 were marked.

5. The learned Tribunal after considering the matter, passed an Award holding that the demands of the workmen are justified and accordingly passed the Award. Against the same, the present Writ Petition has been filed by the management.

6. The learned counsel for the management submits that the Tribunal has committed an error in adjudicating the matter. She further submits that when the management does not require man power in a particular category, it is always open for them to take the work from the other suitable workmen and pay the difference of wages. But, the Tribunal has no power to direct the management to appoint such persons on permanent basis. Coming to the question of dust allowance and grant of technical Grade-A to Electrical charge-hands working as Electrical Supervisors, the learned Counsel submits that inasmuch as the payment of allowance is covered by the Coal Wage Agreement and such a provision was not made and the workmen have no right to claim the dust allowance. Similarly, on the question of grant of Technical Grade-A to Electrical charge-hands working as Electrical Supervisors, the learned counsel submits that the Award of the Tribunal is not sustainable under law.

7. I have heard the learned Counsel for the respondents.

8. It is submitted by the learned Counsel for the respondents that the Tribunal adjudicated the matter on a reference made by the Central Government duly taking into account the evidence adduced by both the parties. Therefore, the interference of this Court under Articles 226 and 227 of the Constitution of India is very much limited, unless there is a jurisdictional error or the award as such is arbitrary and

unreasonable. It is not proper on the part of this Court sitting under Article 226 of the Constitution of India to interfere with the awards which are exclusively taken by the Tribunal constituted under the Act.

9. Coming to the question of adjudication of first issue i.e. posting of Rope Splicers in Category V in second and third shifts, it is on record that the rope splicers are engaged only during the general shifts, but, however in the second and third shifts their requirement is very much uncertain and therefore whenever the services of rope splicers are taken from the other category of employees, they are being paid the difference of wages and therefore directing placement of rope splicers in second and third shifts is unwarranted and the Tribunal cannot thrust upon the management to place particular type of man power even though it is not required. I have also perused the award on this aspect. It is seen that only in general shift, the rope splicers are engaged. But, in the second and third shifts, it is stated that their requirement is very much limited. However, the management has stated that whenever the work of rope splicers is extracted from the category of other employees, they were being paid the difference of wages. Under those circumstances, I am of the considered view that the impugned award of the Tribunal on this aspect is wholly unreasonable and arbitrary. Accordingly, the impugned award on this aspect is set aside and it is made clear that whenever the impugned workers are employed in the second and third shifts to discharge their duties, they are entitled for the difference of wages.

10. Coming to the second and third demands, I find that the Tribunal is justified in allowing the claims. Inasmuch as, it found that the workmen are entitled for dust allowance as they are exposed to dust during the course of their mining operation. Even with regard to grant of Technical Grade-A to Electrical Charge-hands working as Electrical Supervisors, it is clearly stated by the Tribunal that they are entitled for Grade-A, if they possess the requisite certificates. Admittedly some persons namely K.Rajasekharan and others who were the certificate holders, were granted Grade-B instead of Grade-A. Thus, the Tribunal rightly held that they are entitled for

Grade-A. Hence, I do not find any infirmity or illegality in the award passed by the Tribunal in respect of the demands (ii) and (iii) of the workmen.

11. Accordingly, the Writ Petition is disposed of. No costs.

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G. BIKSHAPATHY, J

Dated:02-09-2004

Ccm

To

1. The Presiding Officer, Industrial Tribunal-I, Chandra Vihar Road, Hyderabad.
2. 2CCs to G.P. FOR LABOUR, High Court Buildings, Hyderabad (OUT)
3. 2CD copies